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INTERNATIONAL TRADE LAW
Twenty-eighth session
Vienna, 2 - 26 May 1995

PROVISIONAL AGENDA, ANNOTATIONS THERETO AND SCHEDULING OF MEETINGS OF THE TWENTY-EIGHTH SESSION

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II. ANNOTATIONS TO THE PROVISIONAL AGENDA

Item 1. Opening of the session

The twenty-eighth session will be held at the Vienna International Centre from 2 to 26 May 1995. The session will be opened on Tuesday, 2 May 1995, at 10:00 a.m. The Commission is composed of the following member States: Algeria, Argentina, Australia, Austria, Botswana, Brazil, Bulgaria, Cameroon, Chile, China, Ecuador, Egypt, Finland, France, Germany, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Mexico, Nigeria, Poland, Russian Federation, Saudi Arabia, Singapore, Slovakia, Spain, Sudan, Thailand, Uganda, United Kingdom of Great Britain and Northern Ireland, United Repulic of Tanzania, United States of America, and Uruguay.

Item 2. Election of officers

Pursuant to a decision taken by the Commission at its first session, the Commission elects, for each session, a Chairman, three Vice-Chairmen and a Rapporteur.

Item 3. Adoption of the agenda

It is suggested that all items be considered in plenary.

Item 4. Draft Convention on Independent Guarantees and Stand-by Letters of Credit

The Commission, at its twenty-second session (1989), decided that work on a uniform law on guarantees and stand-by letters of credit should be undertaken (A/44/17, para. 244). The Working Group on International Contract Practices commenced its work on this topic at its thirteenth session. The Working Group held its twenty-second session from 19 November to 30 September 1994 at Vienna and its twenty-third session from 9 to 20 January 1995 in New York. The Commission will have before it the reports of the Working Group (A/CN.9/405 and 408, respectively).

The text of the draft Convention on Independent Guarantees and Stand-by Letters of Credit, as adopted by the Working Group at its twenty-second and twenty-third sessions and to be found in the annex of document A/CN.9/408, is presented to the Commission for review and finalization. Since the text is in the form of a draft Convention, the Secretariat submits to the Commission a note containing draft final clauses for the draft Convention (A/CN.9/411).

Item 5. Electronic data interchange: draft Model Law

At its twenty-fifth session (1992), the Commission entrusted the preparation of legal rules on electronic data interchange (EDI) to the Working Group on International Payments, which it renamed the Working Group on Electronic Data Interchange (A/47/17, para. 147). The Working Group devoted its twenty-fifth to twenty-eighth sessions to the preparation of those legal rules. At its twenty-eighth session (Vienna, 3-14 October 1994), it approved the text of a draft Model Law on Legal Aspects of Electronic Data Interchange (EDI) and Related Means of Communication. It was noted that the text of the draft Model Law, together with a compilation of comments by Governments

and interested organizations, would be placed before the Commission at its twenty-eighth session for final review and adoption. The Commission will have before it the report of the Working Group (A/CN.9/406), to which the text of the draft Model Law is annexed, and a compilation of comments by Governments and international organizations (A/CN.9/409).

The Working Group, at its twenty-eighth session, decided that the draft Model Law should be accompanied by a guide to assist States in enacting and applying the draft Model Law. It was decided that the Working Group would devote its twenty-ninth session, to be held from 27 February to 10 March 1995 in New York, to the preparation of that guide, on the basis of a draft to be presented by the Secretariat. In addition, the twenty-ninth session of the Working Group will be devoted to a discussion of the issue of incorporation of terms and conditions into a data message by means of a mere reference to such terms and conditions, and to a general discussion on negotiability and transferability of rights in goods in an electronic environment. The Commission will have before it the report of the Working Group (A/CN.9/407).

Item 6. International commercial arbitration: draft notes on organizing arbitral proceedings

The project, which the Commission at its twenty-sixth session in 1993 decided to undertake (A/48/17, paras. 291-296), is to prepare an annotated list of matters possibly to be considered in an international arbitration; the purpose is to assist practitioners in organizing arbitral proceedings. At the twenty-seventh session in 1994, the Commission considered the first draft entitled "Draft Guidelines for Preparatory Conferences in Arbitral Proceedings" (A/CN.9/396 and Add.1; considerations of the Commission: A/49/17, paras. 111-195), which was subsequently also discussed at several meetings of arbitration practitioners, including the XIIth International Arbitration Congress, organized by the International Council for Commercial Arbitration (ICCA) (Vienna, 3 - 6 November 1994). The Commission will have before it a revised draft entitled "Draft Notes on Organizing Arbitral Proceedings" (A/CN.9/410).

Item 7. Receivables financing: assignment of receivables

During the Congress on International Trade Law held by the Commission in conjunction with its twenty-fifth session in May 1992 in New York, it was suggested that work should be undertaken by the Commission on assignment of claims. At its twenty-sixth session (1993), the Commission considered a note by the Secretariat containing a brief discussion of certain legal problems in the area of assignment of claims and of past and current work on assignment and related topics (A/CN.9/378/Add.3). The Commission requested the Secretariat to prepare a study on the feasibility of unification work in the field of assignment of claims (A/48/17, para. 301).

At its twenty-seventh session (1994), the Commission considered a report on legal aspects of receivables financing (A/CN.9/397). The report focused on assignment in receivables financing and indicated that a number of assignment-related problems could be addressed by uniform rules to be prepared by the Commission. As requested at that session (A/49/17, para. 210), the Commission will have before it a report (A/CN.9/412) which discusses in more detail the issues that have been identified and a first draft of uniform rules, which the Commission may wish to refer to a Working Group.

Item 8. Possible future work

(a) Cross-border insolvency

Pursuant to consideration of this item by the Commission at its twenty-sixth session (1993) and twenty-seventh (1994) session, and following the Colloquium on cross-border-insolvency that took place in Vienna in April 1994, the Secretariat organized jointly with the World Federation of Insolvency Practitioners (INSOL International) a Judicial Colloquium on cross-border insolvency (Toronto, 22 and 23 March 1995). The views and conclusions expressed at the Colloquium, which focussed on the question of judicial co-operation, court access for foreign insolvency representatives, and recognition of foreign insolvency proceedings, will be reported to the Commission in a note of the Secretariat (A/CN.9/413).

(b) Build-operate-transfer (BOT) projects

At its twenty-sixth session (1993), the Commission had before it a note on possible future work (A/CN.9/378), in which the Secretariat informed the Commission that it was monitoring work by the United Nations Industrial Development Organization (UNIDO) on the preparation of "Guidelines for the Development, Negotiating and Contracting of BOT Projects". A note apprising the Commission on the progress of the preparation of the UNIDO Guidelines and suggesting possible future work that the Commission could undertake was presented at the Commission's twenty-seventh session (A/CN.9/399). The Commission expressed support for taking up work in the area of BOT projects. As indicated at that session, the Commission will have before it a note on possible future work on BOT projects (A/CN.9/414).

(c) Monitoring of implementation of 1958 New York Convention

The Secretariat will present an oral report about its agreement with Committee D of the International Bar Association concerning a joint project for monitoring implementation of the 1958 New York Convention.

Item 9. Case law on UNCITRAL texts (CLOUT)

Based on a decision by the Commission at its twenty-first session (A/43/17, paras. 98-109), the UNCITRAL secretariat has established a system for collecting, and disseminating information on, court decisions and arbitral awards relating to normative texts emanating from the work of the Commission. The system relies on National Correspondents designated by the States adhering to an UNCITRAL Convention or having enacted legislation based on an UNCITRAL Model Law. The features of that system are explained in the User Guide (A/CN.9/SER.C/GUIDE/1). Abstracts of court decisions relating to the United Nations Sales Convention and the UNCITRAL Model Arbitration Law are contained in documents A/CN.9/SER.C/ABSTRACTS/1, 2, 3, 4, 5 and 6.

Item 10. Training and assistance

The Commission will have before it a note by the Secretariat on this subject (A/CN.9/415).

Item 11. Status and promotion of UNCITRAL legal texts

The Commission will have before it a note by the Secretariat (A/CN.9/416) concerning the present status of the Convention on the Limitation Period in the International Sale of Goods (New York, 1974); United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg); United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980); Protocol amending the Convention on the Limitation Period in the International Sale of Goods (Vienna, 1980); United Nations Convention on International Bills of Exchange and International Promissory Notes (New York, 1988); United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (Vienna, 1991); Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958); and the UNCITRAL Model Law on International Commercial Arbitration.

The Commission will hear an oral report about actions of the Secretariat and the Comité Maritime International (CMI) concerning the United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules).

Item 12. General Assembly resolutions on the work of the Commission

The Commission may wish to take note of General Assembly resolution A/49/55 of 9 December 1994 on the report of the United Nations Commission on International Trade Law on the work of its twenty-seventh session and A/49/54 on the UNCITRAL Model Law on Procurement of Goods, Construction and Services. Copies of the resolutions and the report of the Sixth Committee (A/49/739) will be made available at the session.

Item 13. Other business

The Commission will have before it a bibliography of recent writings related to the work of the Commission (A/CN.9/417).

The Secretariat will present an oral report about the second competition of the Willem C. Vis International Commercial Arbitration Moot.

Item 14. Date and place of future meetings

(a) Twenty-ninth session

The twenty-ninth session will be held at United Nations Headquarters in New York. Arrangements have been made for the session to be held from 6 to 24 May 1996.

(b) Sessions of Working Groups

(i) Working Group on Electronic Data Interchange

The thirtieth session of the Working Group will be held at Vienna from 30 October to 10 November 1995. Information regarding dates available for a session in 1996 will be supplied by the Secretariat.

(ii) Working Group on International Contract Practices

The twenty-fourth session of the Working Group will be held at Vienna from 13 to 24 November 1995. Information regarding dates available for a session in 1996 will be supplied by the Secretariat.

(iii) Working Group on the New International Economic Order

Information regarding dates available for future sessions in 1995 and 1996 will be supplied by the Secretariat.

Item 15. Adoption of the report of the Commission

The General Assembly, in paragraph 10 of resolution 2205 (XXI), decided that the Commission should submit an annual report to the General Assembly, and that the report should be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Under a decision of the Sixth Committee (A/7408, para. 3), the report of the Commission is introduced to the General Assembly by the Chairman of the Commission or by another officer of the Bureau designated by the Chairman.

III. SCHEDULING OF MEETINGS

There will be 18 working days available for consideration of the agenda items at the session. The Secretariat would recommend that the agenda items be taken up in numerical order and that the Commission anticipate devoting the first eight days, i.e. Tuesday, 2 May to Thursday, 11 May (after items 1 to 3) to agenda item 4; the next four days, i.e. Friday, 12 May to Wednesday, 17 May, to item 5, and the following three days, i.e. Thursday, 18 May to Monday, 22 May, to item 6. Items 7 to 14 would then be considered during Tuesday, 23 May and Wednesday, 24 May. No meeting will be scheduled for Thursday, 25 May, to enable the Secretariat to prepare the draft report. Friday, 26 May, will be reserved for the adoption of the report.

Meeting hours will be from 9.30 to 12.30 and 14.00 to 17.00, except on Tuesday, 2 May, when the meeting will commence at 10.00.

During the fourth week of the session, 22 to 26 May 1995, the Sixth UNCITRAL Symposium on International Trade Law will be held at the Vienna International Centre.

IV. MEETING OF NATIONAL CORRESPONDENTS

Since the twenty-second session of the Commission it has become customary to hold, in conjunction with Commission sessions, meetings of the National Correspondents for the case collection system referred to under agenda item 9. It is planned that the National Correspondents will meet on Thursday, 25 May, when no meeting of the Commission has been scheduled, and possibly on Friday, 26 May, after the adoption of the report by the Commission. Further information concerning the scheduling of the meeting of National Correspondents will be communicated during the session.